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P-3947-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: SAM KRAUSZ
FOR: METHOD OF ADMINISTERING FIRST-AID
IN A VEHICLE
SERIAL NO.: 10/085,899
FILED: MARCH 1, 2002
EXAMINER: PAUL R. DURAND

Hon. Commissioner of Patents
and Trademarks
Washington, DC 20231

Sir:

NOTICE OF APPEAL

Applicant appeals the FINAL REJECTION of 04/21/2004 and herewith submits two checks, namely, a check for the Notice of Appeal fee of \$165 and a check for the Appeal Brief fee of \$165.

BRIEF OF APPLICANT

1. Real Party in Interest

The applicant above named.

2. Related Appeals or Interferences

None.

3. Status of Claims

There is one claim on appeal as set forth in the appendix.

4. Status of Amendments After Final Rejection

None.

05/06/2004 HABDELRI 00000092 10085899
01 FC:2401 165.00 OP
02 FC:2402 165.00 OP

5. Summary of Invention

Although generally useful for home use, typical storage locations of a first-aid kit 10 in kitchen and bathroom cabinets do not provide first-aid access to a motorist in an automobile in which a first-aid emergency can arise.

Addressing this shortcoming, there is proposed a method of making readily accessible-to-use first-aid procedures in an automobile using commercially available plastic compact disc (CD) holders and an auto armrest storage site, all as will be better understood as the description proceeds.

Reference will be had first to Figs. 2 and 3, wherein the numeral 56 designates a typical vehicle front seat and the numeral 58 denotes a typical armrest (Fig. 3) conventionally provided centrally of the vehicle front seat and thus in close proximity to whatever tape, disc, etc., player (not shown) is used in the vehicle. The attachment is indicated as a whole by the numeral 60 and includes a fore-and-aft elongated box-like structure 62 (hereinafter a box) having a top 64, opposite side walls 66, a bottom 68, a closed rear end 70 and an open front 72, the walls, bottom and rear end cooperate to bound a storage compartment 74, and the top edges on the open front 72 bounds an opening 73 into the storage compartment 74. A fore-and-aft elongated drawer 76 is received in the box 62 via the front end 72 for selective fore-and-aft sliding movement between open and closed positions. Alternatively in lieu of sliding movement, a pivotally mounted cover (not shown) can be used as a closure for the compartment 74 and, in its closed position serve as an armrest similar to the top 64 of box 62. The drawer is fitted at its front end with a handle 78 for convenience in opening the drawer. Any suitable form of latch may be provided for holding the drawer normally in closed position. Releasable stops 80 and 82 are provided

interiorly of the structure for preventing unwanted forward escape of the drawer completely from the box.

The drawer is formed interiorly with dividers 86 for containing CD holders subsequently to be described in detail in reference to Figs. 6-8. The top wall 64 carries at its underside a spring-loaded strip 88 for engaging the tops of the CD holders to prevent them from rattling in both the up and down positions of the armrest.

The attachment structure is held in place by sleeve-like means 90 secured to a box bottom and depending therefrom. This means (sleeve) is dimensioned to fit the armrest in such fashion as to be capable of being slipped over the armrest from front to rear (see Fig. 2). Opposite sides of the sleeve may be fitted with elasticized gores 92 to enable the sleeve to more firmly grip the armrest in order to firm up the attachment or mounting and to prevent unwanted displacement thereof. As further augmentation of the mounting, the rear or open end of the sleeve may be equipped with straps 94 that embrace the rear of the armrest, being connected to the side of the sleeve as by snap buttons 96; although, any other type of securing means may be provided. The sleeve is closed at its front end as at 98 so as to substantially completely enclose the armrest.

The inventive method is practiced using the described auto armrest construction 58, 60 having an integral storage compartment 74, and further using to advantage jointly therewith standard sized and shaped CD holders, individually and collectively designated 100.

More particularly, the inventive method has as its object making readily accessible-to-use first-aid procedures in an auto 102 comprising the steps of: purchasing plural commercially available plastic CD holders 100 of an established uniform rectangular

shape, as noted at 104, and a dimensionally sized insert 106 correlated to an established uniform circular shape, as noted at 108, and dimensional size 110 of a CD 112 content therein; mounting to partake of a pivotal transverse or alternatively sliding closing movement 114 in relation to the storage compartment opening 73 a cover 64 for the storage compartment 74; disposing in the storage compartment 74 the plural CD holders 100; and commingling with the CD holders 100 in the storage compartment 74 at least one holder 100A of the same size 107, and shape 104 characterized by having first-aid-treating contents 116 therein; whereby the cover 64 serves as an armrest and, when in an open condition, a user has the same extent of accessibility to the first-aid-treating contents 116 as is afforded to the CDs.

More particularly, a motorist in a first aid emergency situation has ready access to the armrest storage compartment 74, and will lift, as noted at 118, the CD holder 100A therefrom, and upon opening the cover 120 **will have available for use between a paper liner 121 two gauze pads 122, five ¾" or three ½" band-aids 124, 126, headache medication 128, four wipes 130, four alcohol pads 132 and adhesive strips 133**, the foregoing having been found to fit in the space in the holder 100A vacated by the removal of the CD insert 106 with its CD 112. (See application, at page 6, lines 12-14).

6. Issues pursuant to 37 CFR 1.192(e)(6)

Issue A.

Whether claim 1 is properly rejected under 35 U.S.C. 112, second paragraph as indefinite as there being an insufficient antecedent basis for the limitation “selected first aid treating items” in line 1 in step “E” of the claim.

Issue B.

Whether claim 1 is properly rejected under 35 U.S.C. 103(a) as being unpatentable over the Logoed CD “The Medi CD Kit” (Non Patent Literature www.thelogoedcd.com) in view of Worrell et al. (US 6,497,443)

7. Grouping of Claims

Grouping does not apply.

8. Argument pursuant to 37 CFR 1.192(c)(8).

Issue A.

It is not certain to applicant whether the antecedent basis for the limitation “selected first aid treating items” is alleged to be insufficient in the application, or in the claim preceding the recitation thereof in line 1 of step “E”, and so applicant responds to both insufficiency allegations.

As noted in bold type in the “Summary of Invention” the application at page 6, in lines 12-14 identifies selected first aid treating items and, as such, provides an antecedent basis for the claim limitation in question.

In the claim on appeal, the preamble in line 1 refers to “first-aid procedures” and applicant, with the Board’s approval, would amend this to read – first-aid treating items--.

For the reasons stated, the rejection should be overruled or deemed cured.

Issue B

A. Preliminary Remarks

Annexed as Exhibit A hereto is “Notice of References Cited” identifying the cited “Non-Patent Documents” with the instructions “Include as applicable: Author, Title, Date, Publisher, Edition or Volume, Pertinent Pages” (Underlining added).

Annexed as Exhibit B hereto is the “Copy of web page” of the identified web site.

B. Argument

The “Copy of web page” of Exhibit A is conceded by the examiner as being of a “date unknown” in Exhibit B of record and, as such, lacks anticipatory significance under 35 U.S.C. 103(a) which prohibits the granting of a patent predicated on prior art which, by definition, would be “art” dated prior to 03/01/02, the filing date of this application.

Thus, only the Worrell et al. patent has anticipatory significance under 35 U.S.C. 103(a), but the rejection is not based only on Worrell et al. and thus rejection as made by the examiner cannot stand.

Assuming arguendo that the rejection was based only on Worrell et al., had such a rejection been made it would not have been proper. In connection with the Worrell et al. patent, the examiner has stated he “takes Official Notice that ...in the art of packaging [i.e., in this case of a CD] to place articles...in such a manner...that the package can properly close after the contents are placed inside.” (underlining added). What the examiner is taking officie notice of either misses the point or also includes, but is not acknowledged by the examiner, to be that the CD, which is the content of the package, is removed and replaced by something entirely different, namely a first aid kit.

As to the "removal and replace[ment]" the examiner's reliance on "Official Notice" is not in compliance with the memorandum clarifying the circumstances in which it is appropriate to rely on "Official Notice" in making a rejection of the directive dated February 21, 2002 to Patent Examining Corps/Technology Center Directors from Stephen G. Kunin, Deputy Commissioner for Patent Examination Policy.

It was not appropriate in this case for the examiner to take official notice of facts, namely applicant's method steps E and F of the claim on appeal without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well known.

In these circumstances in particular, applicant has made of record the need to make accessible first aid materials in the event of an auto emergency. Filling in this gap demonstrates applicant's creativity, and it was the proof burden of the examiner, who is arguing otherwise, to comply with Deputy Commissioner Stephen G. Kunin's directive of February 21, 2002, and this has not been done in this record on appeal.

For the foregoing reasons it is respectfully requested that the rejection of claim 1 be reversed.

Respectfully,

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Dated: April 30, 2004

APPENDIX

1. A method of making readily accessible-to-use first-aid procedures in an auto comprising the steps of:

- A. purchasing plural commercially available plastic CD holders of an established uniform rectangular shape and dimensional size correlated to an established uniform circular shape and dimensional size of a CD content therein;
- B. establishing a storage site between an auto driver and front passenger's seats constituted of walls bounding a storage compartment with top edges thereon bounding an opening into said storage compartment;
- C. arranging for opening and closing movements in relation to said storage compartment opening a cover for said storage compartment;
- D. disposing in said storage compartment said commercially available plural CD holders with CD contents as purchased;
- E. placing in an empty CD holder selected first-aid treating items constituted of a bulk of a lesser extent than a space vacated by the removal of said CD contents as purchased of a CD holder; and
- F. commingling with said commercially available CD holders in said storage compartment at least said one CD holder having first-aid-treating contents therein;

whereby said cover serves as an arm rest and when in an open condition a user has the same extent of accessibility to said first-aid-treating contents as is afforded to said CDs.

**Notice of References Cited**

Application/Control No.

10/085,899

Applicant(s)/Patent Under
Reexamination
KRAUSZ, SAM

Examiner

Paul Durand

Art Unit

3721

Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6,497,443	12-2002	Worrell et al.	296/37.8
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	Copy of web page, The logoed CD, www.thelogoedcd.com, date unknown
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



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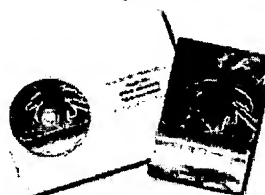


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